



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 2 2 - 0 2 4 8
JUL 1 3 2022

REPORT RE:

**DRAFT ORDINANCE AUTHORIZING SALE OF CITY-OWNED PROPERTY
LOCATED AT 5623 AND 5633 ELMER AVENUE, LOS ANGELES, CALIFORNIA
(COUNCIL DISTRICT 2)**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 12-0049-S5

Honorable Members:

As requested by the City Council, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. This draft ordinance authorizes the sale of City-owned real property located at 5623 and 5633 Elmer Avenue, Los Angeles, California 91601 (collectively, the Property) to Homes for Families, a California non-profit public benefit corporation (Buyer). The Property was transferred to the Los Angeles Housing Department (LAHD) in or around May 2013 as part of the housing assets of the former Community Redevelopment Agency of the City of Los Angeles (former CRA/LA).

Background

The Property, which has been a vacant lot since 1992, was acquired by the former CRA/LA in 1993 for \$825,000 consisting of Bunker Hill Low & Moderate Income Replacement Housing Trust Funds. The Property was acquired for the development of an affordable housing project that never materialized.

Proposed Project

On or about April 18, 2016, LAHD issued a Request for Qualification & Proposal for the development of several City-owned properties, including the Property. Buyer was selected as the winner based upon various criteria including, but not limited to its ability to: (1) create affordable units/single-family homes; (2) target seniors and veterans and their families; (3) maintain long term financial feasibility, and (4) improve or maintain neighborhood integrity. City Council approved the sale to the Buyer on November 8, 2016.

The Buyer is required to develop the Property into a for-sale small lot subdivision, consisting of 14 lots, 12 of which shall be developed into three bedroom single-family homes, with the remaining two lots used for community space (collectively, the Project). The Project will also include open green space, a designated 6'x4' urban community garden plot for each unit, and a communal area for recreation. Each unit will be income and price restricted for sale to Moderate Income Households pursuant to California Health and Safety Code Section 50093. A City Regulatory Agreement and deed restriction shall be recorded against each unit as it is sold in order to secure affordable resale restrictions for a period of 45 years.

Sale Information

An appraisal of the Property completed in April of 2022, estimated the fair market value of the Property at \$2,801,000. However, pursuant to Los Angeles Administrative Code Section 22.606.2(c), LAHD is authorized to convey any interest owned or controlled by the City in real property at its fair reuse value provided there is one or more agreements in place and one or more deed restrictions recorded, requiring the development, use, and maintenance of the property for affordable housing purposes for a period of time as is determined by LAHD. As stated above, as each subdivided unit is sold to a Moderate Income Household, a City Regulatory Agreement and deed restriction shall be recorded against each unit in order to secure affordable resale restrictions for a period of 45 years.

In June of 2022, Keyser Marston Associates (KMA) prepared a fair reuse valuation analysis for the Property. As stated in the KMA report, fair reuse value is defined as the highest price that a property is expected to bring in given the specific conditions and requirements imposed by a Disposition and Development Agreement (DDA). KMA believes that the estimated fair reuse value of the Property is highly impacted by the requirement that the Property be developed with homes to be sold to Moderate Income Households targeted towards veterans.

KMA used an income approach to valuation in order to estimate the fair reuse value. A sales comparison approach was not used because the Project will be subject to long term affordable resale restrictions, which is materially different than an

unrestricted market rate project. Under an income approach, the fair reuse value of a for-sale development such as the Project, is determined by deducting cost of Project construction plus the anticipated net sales profit to be generated by the sale of the completed homes at the Project. Here, the Buyer has agreed to take no profit from the sale of the homes.

As shown in the KMA report, sales revenue for the Project is estimated at \$2,925,000 and construction costs are estimated at \$5,544,000. This equates to a negative fair reuse value of (\$2,619,000). KMA concludes for the Project to be financially viable, the Property must be donated, which is essentially the case here in that the sales price of the Property will be \$1.00. To assist with filling the financial gap, the City will provide the Buyer with a partial forgivable loan in the amount of the appraised value of the Property and a conditional grant of \$480,000 for construction. As each unit is sold, the City will forgive 1/12 of the forgivable loan less \$40,000, which will be taken on by each homebuyer as a City Soft Second Purchase Assistance Loan. Any remaining funds needed to fill the financial gap will be derived from Buyer's fundraising activities.

Sale Over Lease

LAHD's Property Disposition Policy adopted on November 21, 2017, aims to utilize long term ground leases for the development of affordable housing projects on publically owned land. However, exceptions to this general policy include when the proposed project is developed with affordable homeownership units. Under such circumstances, LAHD may convey the property for sale to low and moderate income homeowners at the fair market value or fair reuse value to the project sponsor, or to the homeowner, subject to affordable housing restrictions and other requirements as may be applied to the project by LAHD.

AB 1486 Surplus Property Requirements

Pursuant California Health and Safety Code Section 54234(a), if an agency entered into an Exclusive Negotiating Agreement for the property prior to September 20, 2019, the disposition is subject to pre-AB 1486 law, provided that the disposition is completed by December 31, 2022. Here, the ENA for the Property was entered into on January 23, 2017.

California Environmental Quality Act (CEQA)

This sale of City-owned surplus property is not expected to result in a significant effect on the environment and, therefore, is categorically exempt from the provisions of State CEQA Guidelines per California Code of Regulations Section 15312, Class 12. It is also exempt pursuant to Article III, Class 12 of the City of Los Angeles CEQA Guidelines.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to LAHD with a request that any comments be transmitted directly to Council or its Committees when this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Mei-Mei Cheng at (213) 922-8374. A member of this Office will be available when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By 

DAVID MICHAELSON
Chief Assistant City Attorney

DM:MMC
Transmittal